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# A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH CONNECTOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the federal Patient  
2 Protection and Affordable Care Act of 2010 (Affordable Care Act)  
3 requires states to establish health insurance exchanges to  
4 connect buyers and sellers of health and dental insurance and  
5 facilitate the purchase and sale of federally qualified health  
6 insurance plans and qualified dental plans. Hawaii's health  
7 insurance exchange, known as the Hawaii Health Connector  
8 (Connector), was established in 2011 and charged with  
9 implementing applicable parts of the Affordable Care Act.

10           The legislature further finds that due to Hawaii's small  
11 population, the highly successful Prepaid Health Care Act of  
12 1974 (Prepaid Health Care Act), and expanded medicaid coverage  
13 that resulted in lower numbers of uninsured residents in the  
14 State, and despite substantial federal investment in technology  
15 and assistance, the efforts of the board of directors and the  
16 staff of the Connector, work contributed by public sector  
17 employees, and the support of the legislature, the Connector was



1 unable to meet the financial sustainability requirements imposed  
2 by the federal government.

3 In June 2015, the federal Department of Health and Human  
4 Services determined that Hawaii was not in compliance with  
5 certain provisions of the Affordable Care Act. The governor,  
6 state cabinet officials, and Connector leadership agreed to  
7 accelerate the transition of the Connector's authority to the  
8 State in November 2015. The legislature notes that this  
9 transition was in the best interests of Hawaii residents, as the  
10 State had already begun the transition into the federal  
11 marketplace for the enrollment period slated to last through  
12 January 1, 2016. The Connector officially ceased operations in  
13 December 2015.

14 The legislature recognizes that some of the challenges  
15 faced by the Connector can be attributed to the overwhelming  
16 success of the State's Prepaid Health Care Act, which has  
17 defined employer-sponsored health insurance in Hawaii and  
18 fundamentally shaped Hawaii's health insurance marketplace for  
19 over forty years. The Prepaid Health Care Act was the first law  
20 of its kind in the nation, and requires nearly all employers to  
21 provide a uniformly high level of coverage for their employees.



1 Under the Prepaid Health Care Act, employees who work at least  
2 twenty hours a week must be offered employer-sponsored health  
3 insurance and cannot be required to pay more than 1.5 per cent  
4 of their wages for employee-only coverage. Furthermore,  
5 employer-based coverage under the Prepaid Health Care Act is  
6 robust and provides significantly better benefits than those  
7 required under the Affordable Care Act.

8 The legislature additionally finds that the Prepaid Health  
9 Care Act's long history of mandated health care coverage has  
10 resulted in a rate of uninsured individuals that is amongst the  
11 lowest in the nation. The uninsured rate in Hawaii has  
12 historically fallen between five and seven per cent, with a  
13 recent analysis putting the current percentage of uninsured  
14 residents at 5.3 per cent. However, the tremendous success of  
15 the Prepaid Health Care Act also created challenges for the  
16 Connector. Given Hawaii's small population, small insurance  
17 marketplace, and historically low uninsured rate, implementing a  
18 state-run exchange that could maintain financial sustainability  
19 was difficult. Overall, the State lacked the high population  
20 and high percentage of uninsured individuals needed to ensure  
21 the long-term sustainability of the Connector.



1           The legislature notes that although the state-based  
2 exchange model did not end up working in Hawaii's unique  
3 marketplace, the Connector was successful in reaching many  
4 previously uninsured individuals. Furthermore, Hawaii residents  
5 will still have the opportunity to access affordable health care  
6 coverage through the federally supported, state-based exchange,  
7 similar to those in Oregon, Nevada, and New Mexico. The  
8 legislature also notes that the State has been working with the  
9 federal government to provide a new framework for marketplace  
10 enrollment that will comply with federal requirements. This  
11 successor program to the Connector will be established in a  
12 separate measure currently moving through the legislative  
13 process.

14           Finally, the legislature acknowledges and appreciates the  
15 work of the board of directors and the staff of the Connector  
16 and notes that neither the board nor the Connector staff are  
17 responsible for the ultimate repeal of the Connector.

18           Accordingly, due to the Connector ceasing operations and  
19 the transition to a federally supported, state-based exchange,  
20 the purpose of this Act is to:



- 1 (1) Repeal the Connector and update an associated  
2 reference to the Connector within the Hawaii Revised  
3 Statutes; and
- 4 (2) Specify that any debts and liabilities pertaining to  
5 the Connector that were incurred prior to its repeal  
6 shall not constitute a debt or liability of the State.

7 SECTION 2. Section 432F-2, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[+]§432F-2[+] Health care provider network adequacy. (a)  
10 On or before January 1 of each calendar year, each managed care  
11 plan shall demonstrate the adequacy of its provider network to  
12 the commissioner. A provider network shall be considered  
13 adequate if it provides access to sufficient numbers and types  
14 of providers to ensure that all covered services will be  
15 accessible without unreasonable delay, after taking into  
16 consideration geography. The commissioner shall also consider  
17 any applicable federal standards on network adequacy. A  
18 certification from a national accreditation organization shall  
19 create a rebuttable presumption that the network of a managed  
20 care plan is adequate. This presumption may be rebutted by  
21 evidence submitted to, or collected by, the commissioner.



1 (b) A managed care plan that does not have a certification  
2 from a national accreditation organization may submit to the  
3 commissioner a plan to become accredited by a national  
4 accreditation organization within a period of two years if the  
5 managed care plan has provided sufficient evidence that its  
6 network is reasonably adequate at the time of submission of the  
7 plan. The commissioner shall also consider any applicable  
8 federal standards on network adequacy. The commissioner may  
9 extend the period of time for accreditation.

10 (c) The commissioner shall approve or disapprove a managed  
11 care plan's annual filing on network adequacy. If the  
12 commissioner deems the filing incomplete, additional information  
13 and supporting documentation may be requested. A managed care  
14 plan shall have sixty days to appeal an adverse decision by the  
15 commissioner in an administrative hearing pursuant to chapter  
16 91.

17 (d) To enable the commissioner to determine the network  
18 adequacy for qualified health plans to be listed [~~with the~~  
19 ~~Hawaii health connector under section 435H 11,~~] on the federal  
20 Patient Protection and Affordable Care Act marketplace the  
21 commissioner may request that a managed care plan demonstrate



1 the adequacy of its provider network at the time that it files  
2 its health plan benefit document with the commissioner.

3 (e) This section shall apply to any managed care plan  
4 qualified as a prepaid health care plan pursuant to chapter  
5 393."

6 SECTION 3. Chapter 435H, Hawaii Revised Statutes, is  
7 repealed.

8 SECTION 4. Notwithstanding the repeal in section 3 of this  
9 Act of chapter 435H, Hawaii Revised Statutes, enacted as Act  
10 205, Session Laws of Hawaii 2011, and amended by Act 233,  
11 Session Laws of Hawaii 2014, the debts and liabilities incurred  
12 by the Hawaii health connector remain the debts and liabilities  
13 of the Hawaii health connector and do not constitute the debts  
14 and liabilities of the State; nor is the State responsible for  
15 the financial operations or solvency of the Hawaii health  
16 connector.

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Hawaii Health Connector; Repeal; Transition

**Description:**

As part of the transition to a federally supported, state-based exchange: repeals the Hawaii health connector, updates an associated reference to the connector, and states that any debts and liabilities pertaining to the connector that were incurred prior to its repeal shall not constitute a debt or liability of the State. (SD2)

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